



August 25, 1999

Ms. Roxanna M. Gonzales
Assistant City Attorney
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283-3966

OR99-2393

Dear Ms. Gonzales:

You ask whether certain information is subject to required public disclosure under the Texas Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 127068.

The City of San Antonio (the "city") received a written request for, among other things, a poll list of early voters by mail. You state that the city will release the requested information to the requestor, but with the social security numbers of the voters redacted. You contend that the social security numbers contained in the poll list are excepted from public disclosure under section 552.101 of the Government Code in conjunction with section 13.004 of the Election Code and the federal Privacy Act of 1974.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes. You rely on section 7 of the Privacy Act of 1974 which provides that "any Federal, State, or local government agency which requests an individual to disclose his social security account number shall inform that individual whether that disclosure is mandatory or voluntary, by what statutory or other authority such number is solicited, and what uses will be made of it." Section 7 does not make the social security numbers confidential; it prescribes the information a governmental agency must provide to an individual when soliciting that person's social security number. The statutory confidentiality protected by section 552.101 requires express language making certain

information confidential or stating that information shall not be released to the public. Open Records Decision No. 478 at 2 (1987). Because social security numbers are not confidential under section 7 of the Privacy Act of 1974, you may not withhold the social security numbers under this section.

Section 13.004 of the Election Code provides as follows:

- (a) The registrar may not transcribe, copy, or otherwise record a telephone number furnished on a registration application.
- (b) The registrar may transcribe, copy, or otherwise record a social security number furnished on a registration application only in maintaining the accuracy of the registration records.

Elec. Code § 13.004. Because the request does not involve maintaining the accuracy of the registration records, the city is prohibited from copying the social security numbers in response to the current request. However, we note that section 13.004 does not prohibit access to and inspection of the social security numbers. *Cf.* Election Law Opinion No. JWF-24 (1984) (although voter registrar prohibited from transcribing, copying, or recording any telephone numbers furnished on voter registration application, persons inspecting such files not subject to prohibition).

You also contend that federal law prohibits disclosure of the social security numbers. A social security number is excepted from required public disclosure under section 552.101 of the Government Code in conjunction with 1990 amendments to the federal Social Security Act, 42 U.S.C. § 405(c)(2)(C)(viii)(I), *if it was obtained or is maintained by a governmental body pursuant to any provision of law enacted on or after October 1, 1990. See* Open Records Decision No. 622 (1994). You contend that this federal provision applies in this instance because section 13.004 of the Election Code was enacted after October 1, 1990. Section 13.004, however, does not establish the requirement that the registrar maintain the social security numbers, but rather only prescribes the purposes for which the registrar may “transcribe, copy, or otherwise record” those numbers, to the extent they are held by the registrar. Consequently, we do not believe that the social security numbers are confidential pursuant to the Social Security Act in conjunction with section 13.004 of the Election Code.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts

presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,

A handwritten signature in black ink, appearing to read 'Yen-Ha Le' with a stylized flourish at the end.

Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/nc

Ref.: ID# 127068

Encl. Submitted documents

cc: Mr. Glenn Stehle
701 N. St. Mary's
San Antonio, Texas 78205
(w/o enclosures)